

1
2 15. Other than a direct appeal from the judgment of conviction
3 and sentence, have you previously filed any petitions, applicat-
4 ions or motions with respect to this judgment in any court, state
5 or federal?

6 Yes X No

7 16. If your answer to No. 15 was "yes," give the following
8 information:

9 (a) (1) Name of court: DISTRICT COURT CLARK COUNTY NEVADA
10 Department IV/ In the supreme court of the state of Nevada.

11 (2) Nature of proceeding: Petition for post conviction relief
12 motion to vacate sentence.

13 (3) Grounds raised: Plea of guilty was not knowingly and voul-
14 enterly entered petitoners sentence of life without was violative
15 of the cruel and unusual punishment/ineffective assistance of
16 counsel.

17 (4) Did you receive an evidentiary hearing on your petition,
18 application or motion? Yes No X

19 (5) Result: Denied

20 (6) Date of result: March 25, 1992

21 (7) If known, citations of any written opinion or date of
22 orders entered pursuant to such result: None known

23
24 (b) As to any second petition, application or motion, give
25 the same information:

26 (1) Name of court: DISTRICT COURT CLARK COUNTY DEPT IV

27 (2) Nature of proceeding: MOTION TO VACATE SENTENCE
28

1 (3) Grounds raised: defendants presentence report contained
2 materially inaccurate information.
3
4
5

6 (4) Did you receive an evidentiary hearing on your petition,
7 application or motion? Yes _____ No X

8 (5) Result: DISMISSED

9 (6) Date of result: 7/3/95

10 (7) If known, citations of any written opinion or date of
11 orders entered pursuant to each result: N/A
12

13 (c) As to any third or subsequent additional applications or
14 motions, give the same information as above, list them on a
separate sheet and attach.

15 (d) Did you appeal to the highest state or federal court
16 having jurisdiction, the result or action taken on ay petition,
application or motion?

17 (1) First petition, application or motion? Yes X No _____

18 Citation or date of decision: 1/24/94

19 (2) Second petition, application or motion? Yes _____ No X

20 Citation or date of decision: X

21 (3) Third or subsequent petitions, applications or motions?

22 Yes _____ No _____

23 Citation or date of decision: _____

24 (e) If you did not appeal from the adverse action on any
25 petition, application or motion, explain briefly why you did not.
26 (You must relate specific facts in response to this question.
Your response may be included on paper which is 8 1/2 by 11 inches
27 attached to the petition. Your response may not exceed five hand-
written or typewritten pages in length.)

28 HAD TO FILE WRIT OF HABEAS CORPUS WITHIN ONE YEAR.

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, post-conviction relief pursuant to chapter 177 of NRS, motion or application? If so, identify:

(a) Which of the grounds is the same: INEFFECTIVE ASSISTANCE OF COUNSEL.

(b) The proceedings in which these grounds were raised: POST CONVICTION RELIEF.

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten pages in length.)

To have issue decided on its merits now presented before the court.

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

Plea induced by prosecuting attorney through coercion, trickery threats. Const. violation. Conviction obtained by use (contd. pg. 10)

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

Petitioner filing within one year of judgement by the nevada
surpreme court.

20. Do you have any petition or appeal now pending in any
court, either state or federal, as to the judgment under attack?

Yes _____ No X

If yes, state what court and the case number: _____

21. Give the name of each attorney who represented you in
the proceeding resulting in your conviction and on direct appeal:

(David Gibson/Stephen Dahlpublic defender)Elizabeth McMahon

Mark B.Bailous

22. Do you have any future sentences to serve after you com-
plete the sentence imposed by the judgment under attack?

Yes _____ No X

If yes, state what court and the case number: _____

23. State concisely every ground on which you claim that you
are being held unlawfully. Summarize briefly the facts supporting
each ground. If necessary you may attach pages stating additional
grounds and facts supporting same.

(a) Ground one: Plea induced by prosecuting attorney
through coercion, trickery, and threats. Const violation.

Supporting FACTS (Tell your story briefly without citing cases
or law.): Supporting facts on record, prosecuting statementspage

) A plea of guilty can not stand where it(continued PG 11)

(b) Ground two: Ineffective assistance of counsel a sixth
Amendment violation.

Supporting FACTS (Tell your story briefly without citing cases
or law.): Petitioner was denied effective assistance of counsel

1 from preliminary hearing to the sentencing. (continued page 14)

2
3 (c) Ground three: Conviction obtained by use of illegally
4 and coerced confession. Miranda violation.

5 Supporting FACTS (Tell your story briefly without citing cases
6 or law.): Petitioner was never read his miranda rights prior to
7 his arrest. defendant was arrested on august 1, (continued page 17)

8
9 (d) Ground four: _____

10
11 Supporting FACTS (Tell your story briefly without citing cases
12 or law.): _____

13
14
15 WHEREFORE, petitioner prays that the court grant petitioner
16 relief to which he may be entitled in this proceeding.

17 EXECUTED at New York on the 1 day of

18 July, 1999.

19
20
21 Signature of attorney (if any) _____

Signature of petitioner _____

22 Attorney for petitioner _____

Address _____

23 Address _____

24
25 VERIFICATION

26 Under penalty of perjury, the undersigned declares that he
27 is the petitioner named in the foregoing petition and knows the
28 contents thereof; that the pleading is true of his own knowledge,

1 except as to those matters stated on information and belief, and
2 as to such matters he believes them to be true.

3
4 J. [Signature]
Petitioner

5
6
7 Attorney for petitioner

8 CERTIFICATE OF SERVICE BY MAIL

9 I, J. [Signature], hereby certify pursuant to
10 N.R.C.P. 5(b), that on this 19 day of August,

11 1999, I mailed a true and correct copy of the foregoing PETITION

12 FOR WRIT OF HABEAS CORPUS addressed to: To MS LORETTA BOWMAN
200 SOUTH THIRD STREET
P.O.BOX 551601
13 LAS VEGAS, NV 89155-1601

14 Warden E.K.Mcdaniel
Respondent prison or jail official
15 P.O.BOX 1989 E.S.P
ELY NEVADA 89301

16
17 Address

18
19 Attorney General
Heroes' Memorial Building
20 Capitol Complex
Carson City, Nevada 89710

21
22 Stewart L. Bell
23 District Attorney of County of Conviction
200 S THIRD ST STE 701
24 PO BOX 552212
LAS VEGAS NV 89155-2212

25 Address

26
27 J. [Signature]
28 Signature of Petitioner

1 (continued from page 6-D)

2 of illegally obtained confession. miranda violation.

3 Filling to exhaust state remedys filed withen 1 year of judg-
4 ment by the Nevada supreme Court that court appointed attorney
5 Mark B. Bailous would not raise but told defendant to raise them
6 on habeas Corpus petition withen one year of judgement to exhaust
7 state remedys so that you may proceed to federal court.

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SUPPORTING FACTS FOR GROUND I

(continued from page 7-A) is the coercion by the state: State told defendant if you plead guilty I will drop the robbery and will not persue it any futher but you must stipulate to the sentence of life without the possiblity of parole but what he did not disclose was that defendant was illegally charged with robbery charge because he knew if robbery was used and to have been used in the plea negotiations the plea has been tainted , supported by states attorneys statements on record ID page 23 .

Attorney for the statedropped robbery at the plea hearing and said it is not even considered but attorney for the defendant contridicts this on record when he states, My understanding was your honer ,is that the state will not go down and try to certify our client on the robbery charge and bring him back those charges will not be pursued any futher ID page 24/25 . Counsel for the defendant states this on Record.

Attorney for the state says that I do believe that counsel for the defendant will agree on the record that dismissal of count II in no way has anything to do with the negotiations and is not consideration. Counsel for the defendant never agrees to this on record before the judge dismisses the charge ID page 24 . Because this was not true counsel told defendant that the negotiations were, he plead guilty and the robbery will be dropped and he stipulate to life without the possibilty of parole andit will not be pursued any futher. Counsel never agreed to this on record because he was under the same impression that the defend- ant was THAT the robbery was apart of the plea negotiations. which leaves the record bare of which plea agrement the defendant plead to the one proposed by the states attorney or the one proposed

1 by the defendants counsel?

2 When the sentencing judge heard this he should have inquired
3 deeper into the facts of wheather or not the robbery was used to
4 induce plea by threats of futher procecutioin or was the robbry
5 not apart of the plea agreement and had defendants counsel
6 stipulate to this on record. Sentencing judge must develope
7 on record the factual basis for the guilty plea when it rest
8 in any significant degree on a promise or agreement made by the
9 prosecutor, the essence of those promises must in some way be
10 made known so that the judge knows that it was not unfairly
11 obtained because if the defendant has been tricked by the proce-
12 cutioin through mis representation into pleading guilty then his
13 due process rights of the united states constitution has been
14 violated. Threatening to bring additional prosecution which is
15 clear renders plea voidable,prosecutor undercuts the basis for
16 the waiver of Constitutional rights implicit in the plea when
17 he makes false statement on record. The most meticulous standards
18 of both promise and performance must be met by prosecutors en-
19 gaging in plea bargainning, contradictory or confusing statements
20 of the law are not adquate when defendant is giving up precious
21 rights gareenteed by the United States Constitution.

22 The court should not have accepted the plea in light of the
23 misunderstanding which obviously existed of wheather defendant
24 was threatend with futher future prosocution or was the robbrey
25 not considered. It is clear however from ccounsels statements
26 on record that the robbry was apart of the plea negotiations.

27 There shOuld have been futher consulting with the court and
28 procecutior andthe defendants counsel in an effort to arrive at

1 an agreeable and legal plea negotiations after which the defen-
2 dant should have been able to inform the court as to the course
3 of action he wishes to take. It is the defendants rights who are
4 being violated when the plea agreement is broken or meaningless,
5 IT is his waiver which must be voluntary and knowing, He offers
6 that waiver not in exchange for the actual sentence or impact
7 on the judge but for the prosecutors statements in court, if
8 they are not adequate the waiver is ineffective and a violation
9 of the United States Constituion. A plea of guilty shown to be
10 unfairly obtained or giving through ignorance, fear, coercion,
11 and or trickory can be vacated by the court.

12 For the grounds the defendant has set befor the court the
13 defendant Prays and hopes that the court will vacate the plea
14 and give the petitioner the opportunity to plead anew.

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SUPPORTING FACTS FOR GROUND II

1 (continued from page 7-8) At preliminary hearing counsel told
 2 attorney for the state that defendant was 18 when in fact he
 3 was 16 and because of this the attorney for the state proceeded
 4 against defendant with an amended complaint charging defendant
 5 with robbery with the use of a deadly weapon and defendant was
 6 held to answer (ID page 23 attorney for the state statements
 7 on record) : (Before I describe the negotiations I should inform
 8 the court that I do NOT believe that he is properly charged with
 9 robbery with use of a deadly weapon. At preliminary hearing
 10 stage I initially believed him to be 16. One of his attorneys
 11 inadvertently told me he was 18. Because of that I proceeded
 12 against him with an amended complaint charging him with robbery
 13 with the use of a deadly weapon and he was held to answer.)

14 For three months defendant stood charged illegally with
 15 robbery in adult court. Counsel cannot have done any investi-
 16 gation into defendant's case if he told attorney for the state
 17 this at preliminary hearing as the attorney for the state states
 18 on record this fact.

19 If counsel would have at least read defendant's statements
 20 to police which was used in and at preliminary hearing he would
 21 have known that defendant was 16 because it says this right on
 22 top (ID page 26). Counsel's statement no matter how inadvertent
 23 did not lessen its impact because illegally charged robbery was
 24 used in plea negotiations (ID page 24/25 Counsel's statements:

25 Mr. Dahl: That's correct, this plea is being made pursuant to
 26 NRS 174.065, the party agrees to a degree of crime if there's
 27 separate degrees of crime, and also in the case of murder sti-
 28 pulate to a punishment less than death. And the other under-

1 standing is your honor that the state will not go down and try
2 to certify our client on the robbery and bring him back .those
3 charges will not be pursued any futher.)

4 These statements took place October 12 1988 2 and a half
5 months after counsel gave false statement to Attorney for the
6 state. In this time period of two and a half months no motions
7 were filed to correct defendant from being charged in adult
8 court with the robbery charge when counsel new defendant was
9 only 16 because he came to visit him in juvenile tank in the
10 ccounty jail but he still did nothing but let the underlying
11 felony hang above defendants head then be used in plea negotia-
12 tion which tainted plea, defence counsel as well as prosecution
13 counsel must know or learn about relevant law and evaluate its
14 application to his client with respect to plea bargain and
15 failure to do so will amount to constitutionall ineffective
16 assistance of counsel and undermine validity of plea.
17 Counsel never told defendant that he was illagally charged
18 with robbery if he had told defendant this and or filed motions
19 he would not have been coerced tricked and threatend by state
20 to induce plea, he would have been given the oppertunity to
21 fight certification and have robbery taken to juvenile court
22 or dropped by the state adult court when defendant had no violent
23 charges from the past or never being committed to Elko or
24 Spring mountain youth authorty this possibilty of defence was
25 there (ID page 23/24 attorney for the state statements on record:
26 (and as I understand the law now although a person of any age can
27 originally be charged in adult court with murder ,for any other
28 crime even if committed during the murderous trans action he

1 has to be originally charged in juvenile court ,

2 THE COURT: He has to be certified .)

3 Counsels performance was deficient, counsel made errors so
4 serious that counsel could not have been functioning as the
5 counsel gareenteed the defendant by the sixth amendment if not
6 for these errors the end result of defendants case would have
7 been diffrent because he would have not pleaded guilty and
8 stipulated to life without the possibilty of parole,when a
9 plea agreement is dissussed and hence sentencing becomes the
10 clients preeminent concern, it is incumbent on counsel to
11 acquaint himself with all the available alternatives and their
12 consequences for the defendants liberty and rehabilitation.
13 Counsels lack of knowlege here is inexcusable.

14 Counsel failed to object when attorney for the state said
15 on record that the robbery was not apart of the plea negotiations
16 and is not considered (ID page 24) defendants statements on -
17 record contridicts this (ID page 25). Counsel has duity to
18 cosult with defendant on important developments and decisions
19 in the course of the prosecution. Had counsel done this the
20 robbrey would not have been used to induce plea.

21 Counsel cannot even be have said to know if defendant can
22 read or write, when he said to court that he only had two years
23 of schooling (ID PAGE 27) This should have been a factor but
24 wasnot. Defendant was not even givven a psychological evalution
25 givving his age and the severity of the crime this should have
26 applied but was not.

SUPPORTING ~~CC~~ FOR GROUND III

1 (continued from page 8-C) 1988 prior to his arrest Defendant
2 was not read his Miranda rights which constituted a violation
3 of his fifth amendant right. Defendant was taken into one room
4 where he was questioned with his uncle Webster leonard davis he
5 then was taken into another room where where no Miranda rights
6 were read just like in the previous room except in the second
7 room there was a typest present and his uncle, he then was que-
8 stioned further and the typest typed everything that was said,
9 the defendant and his uncle were then taken to the room from
10 which they had started where they were asked to sighn by the X
11 and after this was done the defendant was then read his rights
12 and placed under arrest and asked to empty his pockets, defendant
13 was not read his rights and was not told that his statements
14 would lead to adult procecution in adult court. The next day
15 defendant asked a black female gaurd when was he going to juvenil
16 she in return asked him how old he was and the defendant replied
17 16 she said you are not going to juvenile and walked off sing-
18 ging a church song The defendant asked the court for a discovery
19 as to the female gaurd of african american nature who worked the
20 mornning of august 2, 1988. The courts have held that it was
21 entirely unrelistic to carve out the fifth amendment and all
22 statements by juvenils on the ground that these could not lead
23 to criminal involvement the court thus granted juveniles the
24 protection of adult statues. Before any questions can be asked
25 defendant is to be read his miranda rights, in this case before
26 the court this was not done and defendant should be afforded
27 the oppertunity to call these witnesses to testify in the court
28 of law as to these facts and to bring in a lye detector machine

1 for the arresting officer, defendant, and Webster Leonard Davis.

2 There is the question of: DO YOU UNDERSTAND FULLY WHAT YOU
3 HAVE BEEN TOLD,) AT THE top of the waiver, then you are to sign
4 YES or NO THEN YOUR NAME, the defendant signed his name but he
5 did not sign yes that he understood, the detective signed yes
6 (ID Page 26) the defendant did not because he did not under-
7 stand. The defendant can prove in the court of law that he did not
8 sign YES or anything else but his name for a fact. Now this was
9 truly illegal for the detective to do because it is the defen-
10 dant who is giving up the rights not the detective.

11 A guilty plea cannot stand when it is obtained by use of an
12 illegally obtained confession. The detective testified that he
13 took the whole statement in one room but this was false because
14 Karen Payn sat and watched them go from one room to the other
15 and back again and can testify to this fact along with the defend-
16 ants uncle who was in each room with the defendant.

DISTRICT COURT
CLARK COUNTY, NEVADA

JIMMIE DAVIS
Petitioner
v.

CASE NO.C85078
DEPT.NO IV
DOCKET "C"

THE WARDEN OF ELY STATE
PRISON E.K.MCDANIEL
Respondent

AFFIDAVIT IN SUPPORT OF
MOTION FOR WRIT OF HABEAS CORPUS

I JIMMIE DAVIS DO HEREBY swear under the penalty of perjury
that the assertions of this affidavit are true:

1 I am the above defendant in the entitled action.

2 I make this affidavit in support of my motion for writ
of habeas corpus.

3 That petitioner is competent to testify and therfor
would be able to do so if called upon to testify in the court of
law.

4 That petitioner is entitled to the relief sought.

5 Tthat petitioner makes this affidavit in good faith.

6That petitioner was denied due process of law

7 That petitioner was denied the effective assistance
of counsel at preliminarary, during plea negotiations, and plea
hearing. counsel never explained to petitioner that the robbry
was not apart of the plea negotiations and that petitioner
was illegally charged.

8 that counsel was ineffective because he never talked to
defendants uncle about how the arrest was done and or if any
rights were read to defendant.

1 9 That defendant was not read his rights prior to his statements
2 to police.

3 10 That defendant was taken into one room with his uncle and que-
4 stioned where no rights were read, he then was taken into another
5 room where on the way in the hallway his unclespoke to a karen
6 Payn who came with him and said they would be ready to go in a
7 minute because she had some personal buisness to attend to so
8 she sat on the chair while they went into another room where a
9 female typed every thing that was said and no rights were read in
10 this room eather, they then were taken into the orignal room again
11 where the defendant was asked to sighen by the X and thenread his
12 rights and told to empty his pockets he was under arrest for mur
13 der. he gave the contents to his uncle and was cuffed.

14 11 Webster Leonard Davis and Karen Payn can testify to these facts
15 because webster Davis was with the defendant and Karen Payne was
16 in the hallway waiting for them and watched them go from one room
17 to the next, Durring which she talked to Leonard Davis.

18 12 Defendant did not Know he was being charged in adult court
19 with crime because the next day in the morning he asked a black
20 female Gaurd when was he going to juvenile and she asked him how
21 old he was and he told her he was 16 and she said you are not
22 going to juvenile and walked off singging a church song.

23 13 that counsel was ineffective when he failed to explain that he
24 was illegally charged with the underlying felony of robbery.

25 14 That defendant was denied effective assistance of counsel
26 when counsel gave false statement to attorney for the state
27 about defendants age and he was held to answer for the ro-
28 bbery charge in adult court when he was suppose to be charged

in juvenile court or certified as to the robbery charge .

facts supported by the record. and to all witnesses that should
be called to testify.

1 15 That defendant was told robbery would be dropped in return
2 for his plea of guilty and it is apart of the plea negotiations

3 16 That the record is bare of which plea agreement defe-
4 ndant pled guilty to , the one the attorney for the state
5 proposed or the one proposed by the defendants counsel

6 17 Attorney for the state misled defendants counsel and
7 defendant with a false plea agreement and by stating on record
8 that robbery had nothing to do with the plea negotiations when
9 counsel for the defendant contradicted this record.

10 18 That if counsel would have at least read the defendants
11 statements to the police at the preliminary hearing he would
12 have known that defendant was 16 because statement says it right
13 at the top therefore counsel's ineffectiveness made him unable
14 to make reasonable decisions for the defendants case when he
15 let defendant answer to the robbery charge in adult court.

16 19 That defendant believed he was rightfully charged with
17 robbery and would not have pleaded guilty if he would have
18 known he was illegally charged with the robbery

19 20 Attorney for the state and attorney for the defendant
20 coerced defendant into pleading guilty by letting the under-
21 lying felony hang above defendant's head for which he was
22 illegally charged for 3 to 4 months and then used in plea nego-
23 tiations.

24 21 That plea cannot stand when it is induced by coercion
25 trickery, or false promises made by the state or counsel for
26 the defendant.

27 22 That defendant was told that prosecution will not per-
28 sue robbery charge further and it is apart of the plea agree-

1 ment and negotiations in return for his plea of guilty.
2 23 that on the signed waiver at the top where it says DO YOU
3 UNDERSTAND FULLY WHAT YOU HAVE BEEN TOLD THAT THE DEFENDANT
4 DID NOT write the word yes and the detective did when he cannot
5 do this because he is not the one giving up his rights.

6 JIMMIE DAVIS
7 JIMMIE DAVIS 27362

8
9 I the undersigned, hereby declare under under the penalty
10 of perjury, pursuant to NRS 208.165, that the forgoing is true
11 and correct.

12 Executed this 21 DAY OF AUGUST 1995 at Ely state prison.

13
14 Jimmie Davis
15 JIMMIE DAVIS 27362
16 P.O. BOX 1989 (ESP)
17 ELY NEVADA 89301
18
19
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1 LAS VEGAS, CLARK COUNTY; WEDNESDAY, OCTOBER 12, 1988

2
3 P R O C E E D I N G S

4
5 THE COURT: C85078, Jimmie Davis. The record
6 will show the presence of the defendant, his counsel, Mr.
7 Gibson and Mr. Dahl, and Mr. Henry for the State.

8 Mr. Henry.

9 MR. HENRY: Your Honor, we have a proposed
10 resolution. The defendant right now stands charged in an
11 Information with two counts, murder with use of a deadly
12 weapon and robbery with use of a deadly weapon. Before I
13 describe the negotiations I should inform the court that I
14 do not believe that he is properly charged with robbery with
15 use of a deadly weapon. At the preliminary hearing stage I
16 initially believed him to be 16. One of his attorneys
17 inadvertently told me he was 18. Because of that I
18 proceeded against him with an amended complaint charging him
19 with robbery with use of a deadly weapon and he was held to
20 answer.

21 After he was held to answer I've had
22 discussions with his counsel and conducted some
23 investigation and I believe him to be 16. And as I
24 understand the law now although a person of any age can
25 originally be charged in the adult courts with murder, for

1 any other crime even if it was committed during the
2 murderous transaction he has to be charged originally in
3 juvenile court.

4 THE COURT: He has to be certified.

5 MR. HENRY: Therefore initially I'd move to
6 dismiss Count II and I want the record to reflect and I
7 believe that his counsel will agree on the record that the
8 dismissal of Count II in no way has anything to do with the
9 negotiation and is not consideration.

10 Having said that --

11 THE COURT: That's jurisdictional.

12 MR. HENRY: Yes.

13 THE COURT: I will grant that motion. Count II
14 is ordered dismissed for that reason.

15 MR. HENRY: Having said that, the proposed
16 negotiation would be that the defendant plead to first
17 degree murder without the use of a deadly weapon as a lesser
18 included offense of Count I and stipulate that the
19 punishment for that first degree murder would be life
20 without the possibility of parole in the Nevada State
21 Prison.

22 MR. DAHL: That's correct. This plea is being
23 made pursuant to N.R.S. 174.065, the party agrees to a
24 degree of crime if there's separate degrees of crime, and
25 also in the case of murder stipulate to a punishment less

1 than death. And the other understanding is, Your Honor,
2 that the State will not go down and try to certify our
3 client on the robbery and bring him back. Those charges
4 will not be pursued any further.

5 THE COURT: All right. Mr. Davis, did you hear
6 what's been said?

7 THE DEFENDANT: Yes.

8 THE COURT: And are you in agreement with
9 what's been said?

10 THE DEFENDANT: Yes.

11 THE COURT: Those negotiations, you've
12 discussed these with your lawyers Mr. Gibson and Mr. Dahl?

13 THE DEFENDANT: Yes.

14 THE COURT: And there is no one who is forcing
15 you to do this, to enter a plea of guilty, are they?

16 THE DEFENDANT: No.

17 THE COURT: With respect to Count I is there
18 going to be any amended pleading filed?

19 MR. HENRY: Your Honor, I had not prepared one.
20 I just move to strike the penalty allegation, the penalty
21 enhancement allegation of use of a deadly weapon.

22 THE COURT: That will be the order then.

23 As to Count I charging you with murder, what is
24 your plea?

25 THE DEFENDANT: Guilty.

POLICE DEPARTMENT
City of North Las Vegas
1301 East Lake Mead Blvd.

Date: 08-01-88PRIOR TO ANY QUESTIONING, YOU MUST UNDERSTAND THE FOLLOWING RIGHTS

1. You have the right to remain silent.
 2. Anything you say can be used against you in a court of law.
 3. You have the right to the presence of an attorney prior to any questioning.
 4. If you cannot afford an attorney, one will be appointed to you prior to any questioning if you so desire.
- If you wish to waive all of the above rights, and answer questions now without an attorney present, you have the right to stop answering questions at any time during the interview.

DO YOU UNDERSTAND FULLY WHAT YOU HAVE BEEN TOLD: Ans: Yes Sign: Jimmie DavisWAIVER

I can read and write the English language and I have read and understand the statement of my rights as shown above. I understand that I have the right to remain silent, that anything I say can be used against me in a court of law, that I have the right to the presence of an attorney before any questioning, that if I cannot afford an attorney one will be appointed to me prior to any questioning, if I so desire.

I hereby waive my rights as shown above and I am willing to answer questions and make a formal statement.

I understand and know what I am doing. No promises or threats have been made to me and no pressure of any kind has been used against me.

Witness: [Signature]Signed: Jimmie Davis

Witness: _____

I, Jimmie Davis, first having been duly informed of my rights by Det. Adams, as shown above, do hereby make the following statement freely and voluntarily and without promises of immunity or reward. My name is Jimmie Davis. I am 16 years of age. I reside at West Webb St, my phone number is 649-7270.

I'm Det. Adams, I'm investigating a homicide that occurred on 07-31-88 at 25 Britz #B. I'm interviewing Jimmie Davis, black male, sixteen years old. Also in the interview is Jimmie Davis's uncle, Webster Davis. Jimmie, at approx. 5:15 PM last date would you tell us where you were at?

A: at the apt. 25 Britz Cir #B where the woman was shot.

Q: Would you tell us who was in the apt. with you?

A: Arthur, Ringo.

Q: Do you know Arthur's last name?

A: I don't know his last name?

Q: Does he have a nickname?

A: Yes, Junior. X [Signature]

EXHIBIT C

* * * * *

THE COURT: C85087, State of Nevada
versus Jimmie Davis.

The record will show the
presence of the defendant; counsel, Mr. Gibson; Mr.
Jerbic for the State. This matter is on for initial
arraignment.

Did you receive a copy of the
information?

MR. GIBSON: Yes.

THE COURT: Do you wish to have it
read?

MR. GIBSON: No, we will waive that.

THE COURT: All right. Is Jimmie Davis
your true name?

THE DEFENDANT: Yeah.

THE COURT: How much schooling have you
had, Mr. Davis?

THE DEFENDANT: Two years.

THE COURT: Do you read, write, and
understand the English language?

THE DEFENDANT: Yeah.

THE COURT: All right. Have you been

DISTRICT COURT
CLARK COUNTY, NEVADA 7-17-95

JIMMIE DAVIS
Petitioner
V.

CASE NO. C85078
DEPT. NO IV
DOCKET "C"

THE WARDEN OF ELY STATE
PRISON E.K.MCDANIEL
Respondent

9-20-95
C960

AFFIDAVIT IN SUPPORT OF
MOTION FOR WRIT OF HABEAS CORPUS

I JIMMIE DAVIS DO HEREBY swear under the penalty of perjury
that the assertions of this affidavit are true:

1 I am the above defendant in the entitled action.

2 I make this affidavit in support of my motion for writ
of habeas corpus.

That petitioner is competent to testify and that petitioner
would be able to do so if called upon to testify in this court
law.

4 That petitioner is entitled to the relief sought.

5 That petitioner makes this affidavit in good faith.

6 That petitioner was denied due process of law

7 That petitioner was denied the effective assistance
of counsel at preliminary, during plea negotiations, and plea
hearing. counsel never explained to petitioner that the robbery
was not apart of the plea negotiations and that petitioner
was illegally charged.

8 that counsel was ineffective because he never talked to
defendants uncle about how the arrest was done and or if any
rights were read to defendant.

9 That defendant was not read his rights prior to his statements to police.

10 That defendant was taken into one room with his uncle and questioned where no rights were read, he then was taken into another room where on the way in the hallway his uncle spoke to a Karen Payn who came with him and said they would be ready to go in a minute because she had some personal business to attend to so she sat on the chair while they went into another room where a female typed every thing that was said and no rights were read in this room either, they then were taken into the original room again where the defendant was asked to sign by the X and then read his rights and told to empty his pockets he was under arrest for murder. he gave the contents to his uncle and was cuffed.

11 Webster Leonard Davis and Karen Payn can testify to these facts because Webster Davis was with the defendant and Karen Payne was in the hallway waiting for them and watched them go from one room to the next. During which time he talked to Leonard Davis.

12 Defendant was charged in adult court with a crime because he was 16. The morning he asked a black female Gaurd who was the judge to juvenile and she asked him how old he was and he told her he was 16 and she said you are not going to juvenile and walked off singing a church song.

13 That counsel was ineffective when he failed to explain that he was illegally charged with the underlying felony of robbery.

14 That defendant was denied effective assistance of counsel when counsel gave false statement to attorney for the state about defendant's age and he was held to answer for the robbery charge in adult court when he was supposed to be charged

in juvenile court or certified as to the robbery charge.

facts supported by the record and to all witnesses that should be called to testify.

1 15 That defendant was told robbery would be dropped in return
2 for his plea of guilty and it is apart of the plea negotiations

3 16 That the record is bare of which plea agreement defe-
4 ndant pled guilty to , the one the attorney for the state
5 proposed or the one proposed by the defendants counsel

6 17 Attorney for the state misled defendants counsel and
7 defendant with a false plea agreement and by stating on record
8 that robbery had nothing to do with the plea negotiations when
9 counsel for the defendant contradict this record.

10 18 That if counsel would have at least read the defendants
11 statements to the police at the preliminary hearing he would
12 have known that defendant was 16 because statement says it right
13 at the top therefore counsels ineffectiveness made him unable
14 to make reasonable decisions for the defendants case when he
15 let defendant answer to the robbery charge in adult court.

16 19 That defendant believed he was rightfully charged with
17 robbery and would not have pleaded guilty if he would have
18 known he was illegally charged with the robbery

19 20 Attorney for the state and attorney for the defendant
20 coerced defendant into pleading guilty by letting the under
21 lying felony hang above defendants head for which he was
22 illegally charged for 3 to 4 months and then used in plea nego-
23 tiations.

24 21 That plea cannot stand when it is induced by coercion
25 trickery, or false promises made by the state or counsel for
26 the defendant.

27 22 That defendant was told that prosecution will not per-
28 sue robbery charge further and it is apart of the plea agree-

1 ment and negotiations in return for his plea of guilty.
2 23 that on the signed waiver at the top where it says DO YOU
3 UNDERSTAND FULLY WHAT YOU HAVE BEEN TOLD THAT THE DEFENDANT
4 DID NOT write the word yes and the detective did when he cannot
5 do this because he is not the one giving up his rights.

6 Jimmie Davis
7 JIMMIE DAVIS 27362
8

9 I the undersigned, hereby declare under under the penalty
10 of perjury, pursuant to NRS 208.165, that the forgoing is true
11 and correct.

12 Executed this 31 DAY OF AUGUST 1995 at Ely state prison.
13

14
15
16 P.O. BOX 1989 ELY NV
17 ELY-NEVADA 89301
18
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21
22
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24
25
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28

1 LAS VEGAS, CLARK COUNTY; WEDNESDAY, OCTOBER 12, 1988

2
3 P R O C E E D I N G S

4
5 THE COURT: C85078, Jimmie Davis. The record
6 will show the presence of the defendant, his counsel, Mr.
7 Gibson and Mr. Dahl, and Mr. Henry for the State.

8 Mr. Henry.

9 MR. HENRY: Your Honor, we have a proposed
10 resolution. The defendant right now stands charged in an
11 Information with two counts, murder with use of a deadly
12 weapon and robbery with use of a deadly weapon. Before I
13 describe the negotiations I should inform the court that I
14 do not believe that he is properly charged with robbery with
15 use of a deadly weapon. At the preliminary hearing stage
16 initially believed him to be 16. One of his attorneys
17 inadvertently told me he was 18. Because of that I
18 proceeded against him with an amended complaint charging him
19 with robbery with use of a deadly weapon and he was held to
20 answer.

21 After he was held to answer I've had
22 discussions with his counsel and conducted some
23 investigation and I believe him to be 16. And as I
24 understand the law now although a person of any age can
25 originally be charged in the adult courts with murder, for

1 any other crime even if it was committed during the
2 murder transaction he has to be charged originally in
3 juvenile court.

4 THE COURT: He has to be certified.

5 MR. HENRY: Therefore initially I'd move to
6 dismiss Count II and I want the record to reflect and I
7 believe that his counsel will agree on the record that the
8 dismissal of Count II in no way has anything to do with the
9 negotiation and is not consideration.

10 Having said that --

11 THE COURT: That's jurisdictional.

12 MR. HENRY: Yes.

13 THE COURT: I will grant that motion. Count II
14 is ordered dismissed for that reason.

15 MR. HENRY: Having said that, the proposed
16 negotiation would be that the defendant plead to first
17 degree murder without the use of a deadly weapon as a lesser
18 included offense of Count I and stipulate that the
19 punishment for that first degree murder would be life
20 without the possibility of parole in the Nevada State
21 Prison.

22 MR. DAHL: That's correct. This plea is being
23 made pursuant to N.R.S. 174.065, the party agrees to a
24 degree of crime if there's separate degrees of crime, and
25 also in the case of murder stipulate to a punishment less

1 than death. And the other understanding is, Your Honor,
2 that the State will not go down and try to certify our
3 client on the robbery and bring him back. Those charges
4 will not be pursued any further.

5 THE COURT: All right. Mr. Davis, did you hear
6 what's been said?

7 THE DEFENDANT: Yes.

8 THE COURT: And are you in agreement with
9 what's been said?

10 THE DEFENDANT: Yes.

11 THE COURT: Those negotiations, you've
12 discussed these with your lawyers Mr. Gibson and Mr. Dahl?

13 THE DEFENDANT: Yes.

14 THE COURT: And are there any people who are forcing
15 you to do this, to enter a plea, are they?

16 THE DEFENDANT: No.

17 THE COURT: With respect to Count I is there
18 going to be any amended pleading filed?

19 MR. HENRY: Your Honor, I had not prepared one.
20 I just move to strike the penalty allegation, the penalty
21 enhancement allegation of use of a deadly weapon.

22 THE COURT: That will be the order then.

23 As to Count I charging you with murder, what is
24 your plea?

25 THE DEFENDANT: Guilty.

349

POLICE DEPARTMENT
City of North Las Vegas
1301 East Lake Mead Blvd.

Date: 08-01-88

PRIOR TO ANY QUESTIONING, YOU MUST UNDERSTAND THE FOLLOWING RIGHTS

1. You have the right to remain silent.
 2. Anything you say can be used against you in a court of law.
 3. You have the right to the presence of an attorney prior to any questioning.
 4. If you cannot afford an attorney, one will be appointed to you prior to any questioning if you so desire.
- If you wish to waive all of the above rights, and answer questions now without an attorney present, you have the right to stop answering questions at any time during the interview.

DO YOU UNDERSTAND FULLY WHAT YOU HAVE BEEN TOLD: Ans: Yes Sign: Jimmie Davis

WAIVER

I can read and write the English language and I have read and understand the statement of my rights as shown above. I understand that I have the right to remain silent, that anything I say can be used against me in a court of law, that I have the right to the presence of an attorney before any questioning, that if I cannot afford an attorney one will be appointed to me prior to any questioning, if I so desire.

I hereby waive my rights as shown above and I am willing to answer questions and make a formal statement.

I understand and know what I am doing. No promises or threats have been made to me and no pressure of any kind has been used against me.

Witness: [Signature]

Signed: Jimmie Davis

Witness: _____

I, Jimmie Davis, first having been duly informed of my rights by Det. Adams, as shown above, do hereby make the following statement freely and voluntarily and without promises of immunity or reward. My name is Jimmie Davis. I am 16 years of age. I reside at 1833 S. 4th St. #8. My phone number is 649-7250.

I'm Det. Adams, I'm investigating a homicide that occurred on 07-31-88 at 25 Britz #B. I'm interviewing Jimmie Davis, black male, sixteen years old. Also in the interview is Jimmie Davis's uncle, Webster Davis. Jimmie, at approx. 5:15 PM last date would you tell us where you were at?

A: at the apt. 25 Britz Cir #B where the woman was shot.

Q: Would you tell us who was in the apt. with you?

A: Arthur, Ringo.

Q: Do you know Arthur's last name?

A: I don't know his last name?

Q: Does he have a nickname?

A: Yes, Junior. X J.D.

EXHIBIT C

Jimmie Davis

* * * * *

THE COURT: C85087, State of Nevada
versus Jimmie Davis.

The record will show the
presence of the defendant; counsel, Mr. Gibson; Mr.
Jerbic for the State. This matter is on for initial
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had, Mr. Davis?

THE DEFENDANT: Two years.

THE COURT: Do you read, write, and
understand the English language?

THE DEFENDANT: Yeah.

THE COURT: All right. Have you been

1 ANDRES R. RAPPARD, ESQ.,
 2 Attorney at Law
 Nevada Bar Number 003892
 3 ANDRES R. RAPPARD, CHTD.,
 A Professional Corporation
 4 633 South Fourth Street, Suite 8
 Las Vegas, Nevada 89101
 5 (702) 388-1772
 Attorney for Defendant
 6 JIMMIE DAVIS

7
 8 DISTRICT COURT
 9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,	)	CASE NO.	C85078
	)	DEPT. NO.	IV
11 Plaintiff,	)	DOCKET:	C
)		
12 vs.)		
	)	FIRST AMENDED PETITION FOR A	
13 JIMMIE DAVIS,	)	WRIT OF HABEAS CORPUS	
	)	Hearing Date: 11-18-95	
14 <u>Defendant.</u>	)	Hearing Time: 9:00 A.M.	

15 COMES NOW, JIMMIE DAVIS, Defendant-Petitioner, by and
 16 through his attorney, ANDRES RAPPARD, and files his First Amended
 17 Petition for a Writ of Habeas Corpus and would respectfully show:

18 1. Defendant, JIMMIE DAVIS (hereinafter "DAVIS"), is in the
 custody of Mr. E.K. McDaniel, Warden of Ely State Prison.

19 2. DAVIS is in custody in violation of the Fifth, Sixth,
 20 and Fourteenth Amendments to the United States Constitution.

21 -PERTINENT FACTS-

22 3. Defendant was arrested at the end of July, 1988, and
 23 booked on murder and robbery. On August 1, 1988, after a
 24 confession was made, detectives had Defendant sign a police form
 25 (attached as Exhibit P-1) indicating he understood his rights,
 26 but Defendant never indicated yes or no on the form, so detective
 27 Al Adams entered "yes" for Defendant.
 28

1 4. Eventually, Defendant pled guilty and stipulated to a
2 sentence of life without parole and, on December 12, 1988, a
3 Judgment of Conviction was entered.

4 5. The attorney of record did not consult with Defendant
5 about whether or not a Notice of Appeal would be filed and thus
6 a notice was not filed.

7 6. A Petition for Post-Conviction Relief was filed
8 alleging:

9 (A) that counsel's trickery, misrepresentations, force, and
10 coercion led defendant to plead guilty;

11 (B) that the life without parole sentence was violative of
12 the cruel and unusual punishment prohibitions of the Nevada and
13 federal constitution;

14 (C) that the life without parole sentence was violative of
15 the equal protection clause of the Fourteenth Amendment; and

16 (D) that counsel was ineffective for several reasons,
17 including for telling defendant an all-white jury would convict
18 him and for not recognizing that there was no malice
19 aforethought.

20 7. On about March 25, 1995, the District Court denied that
21 Petition and the Supreme Court of Nevada dismissed an appeal on
22 about January 24, 1994.

23 8. On about July 3, 1995, the Eighth District Court denied
24 a proper person motion to vacate sentence alleging that
25 materially false information was presented during the sentencing
26 hearing and that decision was not appealed.

27 9. Finally, Defendant filed, in proper person, a post-
28 conviction petition for a writ of habeas corpus which alleged

1 three grounds for relief as set forth below:

2 GROUND ONE

3 10. The prosecuting attorney coerced defendant's plea by
4 filing robbery against the juvenile defendant though the juvenile
5 had not been certified resulting in a tainted and coerced guilty
6 plea which should be withdrawn.

7 GROUND TWO

8 11. Counsel, Mr. Stephen Dahl, was ineffective for failing
9 to file a motion to dismiss the improper robbery charge, instead
10 leaving it on file as leverage to obtain a guilty plea from his
11 client and a sentence equal to the worst sentence likely from
12 trial without a plea bargain.

13 GROUND THREE

14 12. The confession was obtained illegally and was not
15 admissible for any purpose.

16 13. The court orally advised present counsel that
17 supplemental pleadings could be filed and therefore counsel is
18 submitting this amended petition and would allege one additional
19 ground as set forth below.

20 GROUND FOUR

21 14. Counsel was ineffective for failing to obtain
22 defendant's consent prior to deciding not to file a notice of
23 appeal.

24 15. Defendant has submitted numerous facts pertinent to the
25 first three grounds and therefore that material is incorporated
26 herein by reference as Exhibit P-2 (proper person petition). A
27 reading of the proper person materials will familiarize the court
28 with the various sub-parts of each of the original three grounds.

1
2
3 ARGUMENT ONE

4 THIS PETITION SHOULD NOT BE DISMISSED FOR RAISING ISSUES NOT
5 CONTEMPLATED BY NRS 34.810 SINCE THIS PROCEDURAL BAR IS NOT
6 STRICTLY OR REGULARLY ENFORCED.

7 It is settled law that where a state does not regularly or
8 strictly enforce its procedural bars, the claims in habeas must
9 be heard on the merits. See Johnson v. Mississippi, 486 U.S.
10 578, 587 (1988)(quoting Hathorn v. Lovorn, 457 U.S. 255, 262-263
11 (1982)(a state procedural bar is not adequate unless it is
12 strictly or regularly enforced). Here counsel could show,
13 through discovery, that multitudinous petitions and grounds for
14 relief have been heard on the merits in Nevada courts which could
15 have been barred by NRS 34.810 if it was strictly or regularly
16 enforced. Thus, it would be wholly inappropriate to bar either
17 this petition or any of its grounds based upon the selective use
18 of NRS 34.810 and counsel asks that a ruling on the merits be
19 made.

20 ARGUMENT TWO

21 SINCE THESE GROUNDS ARE NEW AND DIFFERENT FROM THOSE OF THE
22 FORMER PETITION, THEY SHOULD BE HEARD.

23 It is true that NRS 34.810.2 does provide that a second or
24 successive petition must be dismissed if the judge or justice
25 determines that it fails to allege new or different grounds for
26 relief and that the prior determination was on the merits or, if
27 new or different grounds are alleged, the judge or justice finds
28 that the failure of the petitioner to assert the grounds in the

// //

1 previous petition constituted an abuse of the writ.

2 See NRS 34.810, 1985.

3 In reviewing the original proper person petition, it is at
4 once evident that the two petitions are different and the grounds
5 are sufficiently different to not simply be a rehash of the
6 former petition. Finally, counsel has added a completely new
7 ground which has resulted in the release of one Nevada prisoner
8 already.

9 Further, with a second grade education and a sentence of
10 life without parole, defendant should not be found to be abusing
11 the writ process.

12 ARGUMENT THREE

13 DEFENDANT DID NOT CONSENT TO A WAIVER OF THE NOTICE OF APPEAL
14 AND PREJUDICE TO HIS RIGHT TO COUNSEL IS TO BE PRESUMED IN SUCH
SITUATIONS WITH RELEASE BEING THE ONLY EFFECTIVE REMEDY.

15 In a recent and relevant federal decision, Honorable Lloyd
16 George, United States District Judge for the District of Nevada,
17 Las Vegas, ordered defendant, Jose Lozada, released
18 unconditionally from confinement since Nevada attorneys took the
19 position that Nevada could not comply with the federal
20 requirement that Lozada either be provided with a late direct
21 appeal or be released.

22 On December 27, 1994, finding that Nevada and its statutes
23 could not provide a late appeal, Judge George unconditionally
24 released Mr. Lozada from state custody.

25 The State of Nevada appealed the release order and that
26 appeal is still pending. See Lozada v. Deeds, 111 S.Ct. 860, 112
27 L.Ed.2d 956 (1991)(prisoner released where state admitted that it
28 would not or could not comply with federal order to provide

1 petitioner with late appeal, not any other remedy).

2 The Lozada case stands for the principle that a decision of
3 counsel not to file a Notice of Appeal must be with the consent
4 of the represented party. Staff at counsel's law office have
5 viewed the release order pertaining to Mr. Lozada which is
6 currently being held, according to the federal clerk's office,
7 with official court records in Laguna Niguel, California, in the
8 original case file (Original Case no. CV-S-89-173-P). A copy
9 will be obtained if deemed necessary by this court.

10 Here, as in Lozada's case, there is no evidence on the
11 record that DAVIS ever consented to the decision not to file a
12 notice of appeal.

13 DAVIS had a real and important right to appeal even though
14 he pled guilty. See Franklin v. State, 877 P.2d 1058 (Nev.
15 1994)(persons who plead guilty and allege that they did not waive
16 the right to appeal are entitled to allege a violation of their
17 rights in habeas with counsel to assist them). It does not
18 matter what the issue on appeal would have been or could have
19 been.

20 DAVIS, though he stipulated to life without parole, did so
21 in the absence of being informed that he could have appealed.
22 Minus this crucial information, DAVIS was in no position to
23 decide whether to file a notice of appeal or not. Prejudice to
24 DAVIS' sixth amendment rights is presumed when the whole record
25 does not reveal that DAVIS consented to not filing the notice of
26 appeal. See Lozada v. Deeds, 871 P.2d 944 (Nev. 1994)(prejudice
27 presumed if it is established that counsel's failure to file a
28 notice of appeal is without consent of defendant).

1 Where such is the case in DAVIS, prejudice to his rights is
 2 presumed. Relief can and must be afforded by the state court.
 3 The proper remedy is release where the state's statutory scheme
 4 is such that there is no provision for a late appeal. This is so
 5 because the right to appeal is a basic right which may not be
 6 abrogated under federal law. Counsel asks that DAVIS be
 7 released, as was Lozada.

8 ARGUMENT FOUR

9 DURING AN EVIDENTIARY HEARING, PETITIONER WOULD SHOW
 10 HIS CONFESSION WAS MADE PRIOR TO A PROPER
 11 MIRANDA WARNING AND THEREFORE INADMISSIBLE.

12 As Exhibit P-1 (proper person petition) shows, DAVIS wrote
 13 a comprehensible allegation that his confession was taken prior
 14 to the Miranda warnings. If this is so, then petitioner would be
 15 entitled to relief. See Miranda v. Arizona, 86 S.Ct. 1602 (1966)
 16 Paine v. State, 877 P.2d 1025 (Nev. 1994)(prisoner who pleaded
 17 guilty to murder was adequately informed when given two Miranda
 18 warnings prior to confession). Here, DAVIS has specifically
 19 alleged that his warnings were given after the confession. Also
 20 see United States v. Swint, 15 F.3d 286, 290 (3rd Cir.
 21 1994)(confession involuntary when defendant thought statements
 22 were off the record and police did not clearly inform defendant
 23 they were on the record).

24 In DAVIS' case, defendant should be allowed an evidentiary
 25 hearing at which he could prove his allegations.

26 ARGUMENT FIVE

27 DEFENDANT IS ENTITLED TO AN EVIDENTIARY HEARING
 28 ON HIS REMAINING CLAIMS THAT COUNSEL AND/OR THE PROSECUTOR
 CAUSED AN INVOLUNTARY GUILTY PLEA

When something more than naked allegations are made which,